

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION
4

5 United States of America,

6 vs.

Docket No.
1:20-cr-00228-MHC-JKL

7 Maurice Fayne,

8 Defendant.
9

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12 TRANSCRIPT OF CHANGE OF SENTENCING HEARING
13 BEFORE THE HONORABLE MARK H. COHEN
14 UNITED STATES DISTRICT COURT JUDGE
15 TUESDAY, SEPTEMBER 14, 2021
16

17 Appearance of Counsel:

18 For the Plaintiff: John Russell Phillips, Esq.
Assistant United States Attorney

19 For the Defendant: Saraliene Durrett, Esq.
20 Saraliene Smith Durrett, LLC
21

22
23 Judith M. Wolff, CRR
24 Official Court Reporter
1914 United States Courthouse
75 Ted Turner Drive, S.W.
Atlanta, Georgia 30303
25 judith_wolff@gand.uscourts.gov

STENOGRAPHICALLY REPORTED, COMPUTER-AIDED TRANSCRIPT

1 (Court was called to order at 10:04 a.m.)

2 THE COURT: Please be seated.

3 This is the case of United States of America vs.
4 Maurice Fayne, Criminal Indictment No. 20-cr-228-1.

5 Will counsel for the parties please identify
6 themselves for the record.

7 MR. PHILLIPS: Good morning, your Honor. Russell
8 Phillips, for the United States.

9 Your Honor, I have with me two special agents. I
10 have Sara Oliver from the SBA OIG, and Monica Staeva from the
11 FBI.

12 And Stephanie Schuessler is here from Probation.

13 THE COURT: Morning, Mr. Phillips.

14 MS. DURRETT: Morning, your Honor. Saraliene
15 Durrett, on behalf of Mr. Fayne.

16 THE COURT: Morning, Ms. Durrett.

17 This is a sentencing hearing following the
18 defendant's plea of guilty to Count 1 of the criminal
19 indictment, charging him with the offense of conspiracy to
20 commit wire fraud in violation of 18 United States Code
21 Sections 1343 and 1349;

22 Counts 2 through 4 of the indictment, charging him
23 with the offense of wire fraud in violation of 18 United
24 States Code Section 1343;

25 Count 5 of the indictment charging him with the

1 offense of bank fraud in violation of 18 United States Code
2 Section 1344;

3 And Count 6 of the indictment, charging him with the
4 offense of making a false statement to a financial institution
5 in violation of 18 United States Code Section 1014.

6 In accordance with Rule 32 of the Federal Rules of
7 Criminal Procedure, the United States Probation office has
8 conducted a presentence investigation and prepared a
9 presentence report, a copy of which has been provided to both
10 the government and the defendant.

11 Ms. Durrett, have you and the defendant had an
12 opportunity read and discuss the presentence report?

13 MS. DURRETT: We have, your Honor.

14 THE COURT: All right. It appears from the record
15 there are no objections to the findings of fact and
16 conclusions of law in the presentence report on behalf of the
17 government; is that correct, Mr. Phillips?

18 MR. PHILLIPS: It is, your Honor.

19 THE COURT: And the same is true on behalf of the
20 defendant; is that correct, Ms. Durrett?

21 MS. DURRETT: Yes. We've made a few clarifications,
22 but no objections. Thank you.

23 THE COURT: Very good.

24 I will adopt the findings of fact and conclusions of
25 law in the presentence report as to which no objections have

1 been made.

2 My guideline calculations are as follows using the
3 2018 edition of the guidelines manual:

4 First, as stated in paragraph 114 of the presentence
5 report, under Section 3D1.2(d) of the guidelines, all counts
6 involving substantially the same harm shall be grouped
7 together into a single group when the offense level is
8 determined largely on the basis of the total amount of loss.
9 So all of the counts in this case are grouped together.

10 As set forth in paragraph 115 of the presentence
11 report, the appropriate guideline for a violation of 18 United
12 States Code Section 1349 is found in Section 2X1.1 of the
13 guidelines which instructs, under subsection (a), to apply the
14 base offense level from the guideline for the substantive
15 offense, plus any adjustments from such guideline for any
16 intended offense conduct.

17 Substantive offense is wire fraud under 18 United
18 States Code Section 1343, and the applicable guideline section
19 is Section 2B1.1, which is the same guideline section that
20 applies to violations of 18 United States Code Section 1344
21 and 1014.

22 Under Section 2B1.1(a)(1), because the offense of
23 conviction has a statutory maximum term of imprisonment of at
24 least 20 years, the base offense level is 7.

25 As set forth in paragraph 116 of the presentence

1 report, pursuant to Section 2B1.1(b)(1)(J), 18 levels are
2 added to the base offense level because the loss amount is
3 greater than \$3.5 million and less than \$9.5 million.

4 The parties have agreed that the actual loss in this
5 case is within this guideline calculation.

6 And as the Court will say later on, the Court has
7 reviewed the information in the presentence report and it
8 appears that there is at least \$4.4 million of restitution
9 that's going to be ordered by the Court, which falls within
10 that guideline.

11 As set forth in paragraph 117 of the presentence
12 report, pursuant to Section 2B1.1(b)(2)(A)(i), two levels are
13 added to the base offense level because the offense resulted
14 in substantial hardship to one or more victims and/or involved
15 ten or more victims.

16 The evidence in this case shows that the offense
17 involved at least 20 victims, causing at least one victim to
18 file for bankruptcy and incurring hardship on many victims in
19 this case.

20 As set forth in paragraph 118 of the presentence
21 report, pursuant to Section 2B1.1(b)(1)(10)(A), two levels are
22 added -- I'm sorry. Did I say (b)(1)? I think it's (b)10(A).

23 2B1.1(b)(10)(A), two levels are added because the
24 offense resulted in -- I'm sorry. I already did that one.

25 So, let's see.

1 I got my numbers confused here. Let me clarify here.

2 So 117 is 2B1.1(b)(2)(A)(i). That's the substantial
3 hardship to the victims, a two level enhancement.

4 Paragraph 118 is 2B1.1(b)(10)(A), and that's where
5 two levels are added if the defendant relocated or
6 participated in relocating a fraudulent scheme to another
7 jurisdiction to evade law enforcement or regulatory officials.

8 In this case the defendant moved his scheme from
9 Arkansas, to Texas, and then to Georgia.

10 As set forth in paragraph 119, in accordance with
11 Section 2B1.1(b)(17)(A) of the guidelines, two levels are
12 added to the base offense level if the defendant derived more
13 than \$1 million in gross receipts from one or more financial
14 institutions as a result of the offense.

15 In this case, the defendant fraudulently obtained a
16 PPP loan from United Community Bank in an amount over \$2
17 million.

18 There are no victim related adjustments.

19 As set forth in paragraph 121 of the presentence
20 report, in accordance with Section 3B1.1(a), four levels are
21 added to the base offense level because the defendant was an
22 organizer or leader of the criminal activity that involved
23 five or more participants or was otherwise extensive.

24 In this case the defendant was the leader of this
25 extensive criminal activity.

1 As set forth in paragraph 122 of the presentence
2 report, in accordance with Section 3C1.1, two levels are added
3 to the base offense level if the defendant willfully
4 instructed or impeded, or attempted to instruct or impede the
5 administration of justice with respect to the investigation,
6 prosecution or sentencing of the instant offense of
7 conviction, and the obstructive conduct related to either the
8 defendant's offense of conviction and any relevant conduct or
9 a closely-related offense.

10 In this case, the defendant contacted a potential
11 witness and the witness's attorney to encourage them to
12 dismiss their civil case against the defendant.

13 And the Court would point out that on December 22 of
14 2020, after a hearing, Magistrate Judge Anand revoked
15 defendant's bond because of his failure to abide by the
16 conditions of his release in that he sent text and email
17 messages to a potential witness and to the witness's lawyer,
18 accusing them of asserting false claims against him and
19 demanding that they withdraw those claims.

20 Based on the foregoing, the adjusted offense level is
21 37.

22 In accordance with paragraphs 125 and 126 of the
23 presentence report, the defendant receives a three level
24 downward adjustment for acceptance of responsibility.

25 That results in a total offense level of 34.

1 There's a plea agreement in this case, but it has no
2 impact on the guideline calculations, except the agreement
3 calls for the government to recommend a sentence of 151 months
4 imprisonment.

5 The defendant's criminal history is as follows:

6 As stated in paragraph 130 of the presentence report,
7 the defendant receives one criminal history point for his May
8 2005 conviction in the Circuit Court for Crittenden County,
9 Arkansas, for one count of battery, for which he received a
10 sentence of 120 months suspended.

11 As set forth in paragraph 131 of the presentence
12 report, defendant receives three criminal history points for
13 his August 2002 conviction in the Circuit Court of Pulaski
14 County, Arkansas, on forgery, for which he received three
15 years probation.

16 Probation was later revoked. He was then sentenced
17 to four years probation. And then, two years later, probation
18 was revoked again. He was sentenced to five years, to serve
19 three years, with the balance suspended.

20 As set forth in paragraph 133 of the presentence
21 report, defendant receives one criminal history point for his
22 October 2012 conviction in the District Court of Pulaski
23 County, Arkansas, on a charge of domestic battery for which he
24 received a one year term of imprisonment, which was suspend.

25 As set forth in paragraph 134 of the presentence

1 report, the defendant receives one criminal history point for
2 his February 2019 conviction in the Circuit Court of Desha
3 County, Arkansas, on two counts of defrauding secured
4 creditors for which he received a sentence of 60 months
5 imprisonment, suspended and probated to six days imprisonment.

6 And a petition to revoke his probation is currently,
7 there is a warrant currently pending for a revocation of
8 probation in that case.

9 So that results in a subtotal criminal history score
10 of 6.

11 However, in accordance with Section 4A1.1(d) of the
12 guidelines, two points are added to the criminal history score
13 if the defendant committed the current offense while under a
14 Criminal Justice sentence and, here, he was on probation in
15 the Desha County, Arkansas case for defrauding secured
16 creditors.

17 So that means two points are added, which makes the
18 total criminal history score 8, which establishes a criminal
19 history category of IV.

20 As set forth in paragraphs 169 through 172, the
21 defendant does not have the ability to pay a fine within the
22 guideline range and he has a substantial restitution
23 obligation.

24 The sentencing options are as follows:

25 The statutory penalty for each count is a term of

1 imprisonment of up to 30 years and a fine of up to \$1 million,
2 or twice the gain or twice the loss, whichever is greatest.
3 There is no mandatory minimum sentence.

4 With a total offense level of 34 and a criminal
5 history category of IV, the custody guideline range is 210 to
6 262 months, the fine guideline range is \$35,000 to \$350,000.

7 There's a restitution amount of -- let me get this
8 right, \$4,465,865.55.

9 There's a special assessment of \$100 on each count,
10 for a total of \$600.

11 There's a forfeiture in this case. The Court has
12 already signed a final order and judgment of forfeiture on
13 July 20 of 2020, Docket No. 207 in the case, which will be
14 incorporated into the judgment and commitment order.

15 The Court could impose the cost of confinement of
16 \$39,365 annually, or a cost of supervision of \$4,465 annually,
17 or both.

18 There's no probation option. There's a term of
19 supervised release of two to five years on each count.

20 And the defendant is a citizen of the United States.

21 Any objection to the guideline calculations as stated
22 by the Court, on behalf of the government?

23 MR. PHILLIPS: No, your Honor.

24 THE COURT: Any objection to the guideline
25 calculations as stated by the Court, on behalf of the

1 defendant?

2 MS. DURRETT: No, your Honor.

3 THE COURT: All right. Let me hear from the parties
4 regarding what a fair and reasonable sentence would be in this
5 case considering the 3553(a) factors.

6 I have read the sentencing memorandum filed by the
7 defendant. I have also reviewed the victim impact statements
8 submitted to me.

9 Mr. Phillips.

10 MR. PHILLIPS: Thank you, your Honor. Would you like
11 me to come to the podium, or stay seated?

12 THE COURT: Whatever is comfortable for you. Staying
13 seated is fine as long as you are talking right into the
14 microphone.

15 MR. PHILLIPS: I will, your Honor. And I will do
16 that only because I have a very brief PowerPoint that I would
17 like to make and it's easier to do that if I am seated.

18 I don't mean any disrespect.

19 THE COURT: Listen, you don't have to stand on
20 ceremony. I have been allowing attorneys to stay seated for
21 the last 18 months and I think it's going to continue on for a
22 while.

23 MR. PHILLIPS: First of all, your Honor, let me say
24 that the government honors its commitment in the plea
25 agreement to recommend that the defendant be sentenced to a

1 term of imprisonment of 151 months. That will be my
2 recommendation. So nothing I'm going to say changes that.

3 However, there are some things that I want to bring
4 to the Court's attention that I think should be highlighted,
5 because the defendant is asking for a sentence that's even
6 lower than that.

7 And as the Court just noted, the actual guideline
8 calculations have a low-end recommendation of 210 months. So
9 what the government is recommending is already substantially
10 below the low end of the guidelines.

11 The reason the government did that is because during
12 the plea negotiation phase of this case, the government was
13 not aware of the defendant's extensive criminal history. Not
14 because we didn't look, not because we didn't try to find out,
15 but because when we looked, it was not available to us.

16 So we operated on the assumption that the defendant
17 was going to be in Criminal History Category I. That's on us.
18 We did not know that he was going to be in a much higher
19 criminal history category.

20 So to request a sentence that's even lower than what
21 we have already agreed to recommend to the Court, even though
22 the Court is not bound by it, we believe the Court should not
23 follow the defendant's recommendation and request on that
24 front.

25 And there are several reasons for that. One is the

1 criminal history that I just talked about. And the other is
2 something that is covered by one of the sentencing
3 enhancements, and that is the obstruction of justice.

4 But it's not just that Mr. Fayne contacted a witness
5 and tried to get that witness to do something that was
6 inappropriate. It's that when we brought a proceeding to
7 revoke his pretrial release, he blatantly lied to Judge Anand
8 during that hearing. And that's explained in detail in the
9 PSR.

10 And it's just so bold, it's so outrageous that he
11 would do that. And he did it several times. It wasn't a
12 mistake. And that's the thing that I highlighted to Judge
13 Anand when we had a follow-up proceeding on this. It wasn't a
14 mistake. It's not like he said he misspoke.

15 And the first thing he said was that he -- that the
16 lawsuit that this lady in Washington had filed against him was
17 not related to the Ponzi scheme charges in this case. That
18 was a blatant misrepresentation to the Court.

19 It has everything to do with that. That lady is a
20 victim in this case. She is listed in the list of victims
21 here. She invested money in Fayne's trucking company and
22 that's why she was suing him, because she got ripped off.

23 And then he doubled down on that and he told Judge
24 Anand that he had never even seen her lawsuit. But we have
25 provided proof to the Court that a process server had served

1 Mr. Fayne and had identified him not only by his physical
2 description, but also by his name and said I personally handed
3 the lawsuit papers to him, the summons and complaint.

4 So he outright lied to Judge Anand. I think that is
5 just so telling. He's going to come in here today and he's
6 going to ask you to have mercy on him: Judge, I made a
7 mistake; Judge, I'm sorry.

8 You hear it all the time, your Honor. This is a man
9 who has already had a chance to tell the truth to this court
10 and he chose not to do that because he thought he could get
11 away with it.

12 Next, I want to highlight the fact that the bank
13 fraud aspect of this case and making the false statements to a
14 financial institution took place during what you have heard
15 repeatedly, I have heard repeatedly throughout the last 18
16 months referred to as unprecedented times. And that is
17 absolutely true.

18 This defendant and his coconspirator Dan Jay obtained
19 a PPP loan, money that was intended by congress to help our
20 fellow citizens who were having trouble keeping their small
21 businesses afloat.

22 The government wanted to provide money to those small
23 businesses to make their payroll, to pay their mortgages, to
24 pay their lease payments and their rent payments and those
25 very limited business expenses.

1 Instead, this defendant and his coconspirator Mr. Jay
2 applied for a \$3.7 million PPP loan. Originally, the bank
3 gave them the \$3.7 million, realized that they had
4 miscalculated how much he was entitled to get, and reduced
5 that amount, pulled some of the money back, leaving him with a
6 little bit over \$2 million.

7 So it's unusual, I have never done this before, to
8 present a very brief PowerPoint on something that is
9 uncontested. The defendant has admitted all of these facts,
10 the Court has already heard about them, but if you don't see
11 it, it's not quite the same.

12 And I would like to take a few minutes and just point
13 this out. This is the actual Paycheck Protection Program form
14 that Mr. Fayne submitted. And you can see that it's in the
15 name of Flame Trucking.

16 He told the bank that he had an average monthly
17 payroll of \$1,490,200, and he was asking for \$3,725,500 in
18 loan proceeds. And he also said he had 107 employees.

19 Those were just blatant outright lies.

20 For some reason the screen is not moving here, not
21 controlling the screen.

22 COURTROOM DEPUTY: You're not controlling it?

23 MR. PHILLIPS: I see what happened here.

24 Yeah. It won't let me control from my computer. Can
25 we exit out of that for one second?

1 I'm not sure why this is happening.

2 Can we try it again?

3 It worked earlier.

4 COURTROOM DEPUTY: I had to reset the system because
5 of the audio.

6 MR. PHILLIPS: Okay.

7 Let me reset mine.

8 Excuse me one second.

9 THE COURT: That's all right. Technology is a
10 wonderful thing until it doesn't work.

11 MR. PHILLIPS: That's right.

12 There we go. Just briefly then, your Honor. The
13 defendant told the bank that he had not been convicted of any
14 felony within the last five years. That was not true.

15 He claimed that he would use all of the money that he
16 was going to get in this PPP loan to do those things that were
17 approved by the Paycheck Protection Program, that is maintain
18 payroll, make mortgage interest payments, lease payments,
19 utility payments, and signed that as the CEO of the company.

20 Instead, what did the defendant do? Almost
21 immediately, as soon as he got his hands on the money, he
22 started spending it for personal purposes. And I want to
23 highlight a couple of things that he did that are all outlined
24 in the indictment, but this is so unusual and so outrageous.

25 Here is a receipt for \$85,000 in custom jewelry that

1 he bought. And that's money that he got from the Paycheck
2 Protection Program that's supposed to go to small businesses
3 to help them survive the pandemic.

4 This is a video of Mr. Fayne receiving the
5 custom-made watch, the Rolex that he got that's diamond
6 encrusted. That's taxpayer money, right there.

7 There's a photo of Mr. Fayne wearing the custom
8 Rolex, the bracelet and the ring. \$85,000 worth of jewelry.

9 Here is a \$340,000 Rolls Royce that he purchased.
10 And here's the application that he submitted to the company to
11 get the Rolls Royce. He paid down about \$136,000. You can
12 see that the purchase price was \$341,800.

13 He bought this in the name of his company, Flame
14 Trucking, LLC. He told them that he was a corporate executive
15 and he had verifiable annual income of \$660,000. That's just
16 another lie. That's a wire fraud right there. It was
17 submitted by wire. That completely was untrue.

18 So those are things I just wanted to bring to the
19 Court's attention that I want the Court to keep in mind when
20 the defendant is asking for an even lower sentence.

21 This outrageous and wasteful use of taxpayer money is
22 something that is -- and because it happened during this
23 pandemic, that's not reflected in the guidelines, it is not
24 reflected in the 151 months.

25 So we're standing by the 151-month recommendation,

1 but we certainly are asking this Court not to go any lower
2 than that.

3 And especially because he has already had an
4 opportunity to tell the truth to the Court and he opted not to
5 do that.

6 Thank you, Judge.

7 THE COURT: Thank you, Mr. Phillips.

8 Ms. Durrett.

9 MS. DURRETT: Thank you, your Honor.

10 So I think the Court may be well aware that Mr. Fayne
11 previously represented himself in this case and he was
12 representing himself at the time that he went before Judge
13 Anand.

14 And I understand that he made those
15 misrepresentations, your Honor, but there was a civil case
16 pending and the criminal case pending. And I understand that
17 he should not have done that. He admits that.

18 Once I became involved in the case, when I met with
19 Mr. Fayne, he almost immediately said I want to take
20 responsibility for this, I want to plead, and I contacted the
21 government.

22 And I'll be honest with you, I don't think that
23 Mr. Phillips believed me when I told him that Mr. Fayne wanted
24 to plead guilty. There was some back-and-forth between us
25 where he was saying, you know, this is -- this is contrary to

1 what we have experienced when we're dealing with Mr. Fayne.

2 So we were able to convince the government, yes, he
3 does want to come in and accept responsibility. He wants to
4 come before the Court, he understands he will be punished and
5 he wants to accept responsibility and we were able to work out
6 this plea agreement.

7 I don't know that I have ever had another plea
8 agreement where we've agreed to every single enhancement. I
9 agree they apply in this case, but typically I try to reserve
10 some of that so I can argue about it if I think we're on the
11 edge somewhere.

12 But Mr. Fayne repeatedly told me he wanted to go
13 forward and accept responsibility. And I think the Court
14 knows from the PSR that he had a childhood where one of his
15 parents was incarcerated while he was young, in and out of
16 jail, and that has had a significant affect on him.

17 So one of the things that he talked about with me was
18 not wanting to have that same pattern with his children. He
19 understands that he has started down that road, but I do
20 believe him when he says he wants to come before the Court and
21 accept responsibility and admit what he has done, admit the
22 wrong and the harm that he has caused, and have the Court
23 sentence him appropriately.

24 I will say that I think sometimes defendants talk to
25 each other about the way to handle things in court when they

1 are representing themselves. Mr. Jay, the codefendant, may
2 still be on that track. It's my understanding he may plead
3 guilty, but he is also continuing to operate in his own, you
4 know, world.

5 THE COURT: Well, he is represented by an attorney,
6 but he is insisting on filing his own material.

7 MS. DURRETT: Right.

8 So what I will say is once I came on board with
9 Mr. Fayne that kind of nonsense stopped and there was a real
10 discussion with him about how we should move forward.

11 And I believe he earnestly took my advice on how to
12 handle this case and how to move forward with his life. And I
13 believe he was earnest in his discussions about wanting to
14 show his daughters that it's time to accept responsibility and
15 try to move forward and do something legitimate with his life.

16 I will say I understand the government's argument
17 that ten years is even lower than their recommendation, but I
18 cited several things to the Court about the guidelines and how
19 they are not really based on empirical data.

20 And for the most part it's kind of figuring out what
21 is the right sentence for the defendant who is standing in
22 front of you, which is what Booker tells us to do. And I know
23 the Court is well versed in all of that.

24 But one of the things I will note, even though he
25 does have prior convictions, he had that sentence where his

1 probation was revoked and he was sentenced to five, serve
2 three.

3 I went back and looked at the probation's document.
4 He served about nine months on that three-year sentence. So
5 the sentence that we're asking for is ten times that amount.
6 And I think that if the Court is looking at deterrence,
7 certainly a sentence of ten years is going to meet that goal.

8 It's significant punishment for Mr. Fayne where he
9 will have to, you know, go into prison and serve this time.

10 I know the Court may be aware that Mr. Fayne was
11 previously on television. There have been some press releases
12 about this case and news reports. So not only will this be a
13 private change to him and a private punishment to him, but my
14 expectation is that this will be a very public punishment for
15 him.

16 And I'm sure the government is going to issue it's
17 own press release about what the sentence is in this case.

18 So in addition to serving that punishment and the
19 shame he's going to feel with his family and himself, it is
20 going to be a very public punishment no matter what the Court
21 sentence comes to.

22 And I believe that based on all the factors I have
23 outlined, including disparity with codefendants or disparities
24 with other similarly-situated people, a sentence of ten years
25 is going to be sufficient but not greater than necessary to

1 meet this Court's sentencing goals.

2 THE COURT: Thank you, Ms. Durrett.

3 MS. DURRETT: Thank you.

4 THE COURT: Mr. Fayne, you have what's called the
5 right of allocution which is the right to make a statement on
6 your behalf. Or you can just rely on what your attorney
7 Ms. Durrett has told the Court. Do you wish to make a
8 statement?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You can stay seated. Just move the mike
11 closer to you.

12 THE DEFENDANT: First of all, I would like to
13 apologize to the Court for my childish, selfish actions, the
14 reasons why we are all here today.

15 But more importantly I would like to apologize to all
16 the victims. You know, I really didn't realize at the time
17 the hurt and pain that I was putting on them, the harm that I
18 was causing them. And I am asking for forgiveness and I hope
19 that they can forgive me one day.

20 I also would like to apologize for my family, going
21 down the same road that my parents went through with me. So
22 hopefully, if this Court have mercy on me, give me a chance to
23 live the second half of my life and I can do things better,
24 live a righteous life and do everything I can to properly pay
25 back the restitution that is due in this case.

1 Most important of anything that I say is just I would
2 truly like to apologize to all the victims and I'm sorry for
3 my actions and the harm that I caused anybody.

4 THE COURT: All right. Thank you, Mr. Fayne.

5 Anything further, on behalf of the government?

6 MR. PHILLIPS: Yes, your Honor. I have two of the
7 victims in the Ponzi scheme who would like to address the
8 Court.

9 THE COURT: Of course.

10 MR. PHILLIPS: Your Honor, first we have Laura Wolf.

11 THE COURT: All right.

12 Ms. Wolf, you can come up to the podium. By the way,
13 I read the entirety of your statement, so I'm very familiar
14 with what you have gone through.

15 If you would state your name.

16 You can remove your mask while speaking, if you would
17 like. And you can restate your name for the record and then
18 say whatever you would like.

19 MS. LAURA WOLF: My name is Laura Wolf. Excuse me.

20 THE COURT: That's all right. Take your time.

21 MS. LAURA WOLF: When I received this document to
22 state -- asked these questions, I really thought really hard
23 and spent countless nights trying to think of what I would say
24 and what would make justice not just for myself, but for my
25 four-year-old and my six-year-old who were greatly affected by

1 this.

2 Question number one was how has this crime affected
3 you and those close to you?

4 Maurice and his crime have affected my life in a way
5 that I will never get back, I will never get that time back,
6 your Honor.

7 Time after time Maurice promised me that this was --
8 this was the time that I would be able to fulfill my American
9 dream of being a homeowner, being able to provide for my two
10 children as a single mother.

11 I was under contract on a home, invested my
12 hard-earned money, working eight hours a day in corporate
13 America to be able to get that home. My children prayed every
14 night, we prayed and prayed for Jesus to grant us the ability
15 to get that home.

16 We were there, we were right at the finish line.

17 I had never made an investment in my life until I got
18 introduced to Maurice and Maurice sold me on a dream. A dream
19 of investing a small amount for a greater gain. And I fell
20 into that trap.

21 I gave, and I gave, and I gave, to the point where I
22 lost my job. I lived on the street with my children. My only
23 resort was to hand them over to my best friend, my ex-husband,
24 until I got myself on my feet.

25 I got my job, I got myself an apartment, I was able

1 to start new.

2 He left me with zero money in my savings account
3 where I had no option, your Honor, but to file for bankruptcy.
4 That took seven years, seven years of my life that I'm unable
5 to get back financially.

6 I am in the brokerage real estate industry where
7 money comes and goes through that industry. I am limited to
8 the jobs that I can get because of what transpired here. I am
9 limited to be able to work with C level executives, manage
10 their expenses because I have a bankruptcy on my file now.

11 At no fault of my own, I fell for a trap. And this
12 wasn't a one-time offense that Maurice has made. He has shown
13 that he is, time after time, year after year, following this
14 same scheme of taking money from people, using it for his own
15 gain.

16 I read the Document 215 that Maurice submitted. And
17 in reading it, it hurt me. The fact that in none of the
18 documents does he apologize to the victims. This is the first
19 time I have heard him apologize. He has apologized to the
20 Court, he has apologized to the judges. And never in a
21 statement did he say I take back everything I did to these
22 victims.

23 The people that he hurt, yes, it was the U.S. of A.,
24 but he also hurt us more on a personal level.

25 I wanted to touch on what my thoughts were in the

1 sentencing of the defendant. I want to compare my life to
2 his. They are very, very similar.

3 I grew up in poverty. I grew up in a small little
4 trailer home in a ranch. My father was a mailman. He worked
5 every day, woke up at 6:00 in the morning, came home at 6:00
6 in the evening. He held a job. My mother worked hard, a good
7 Christian woman who believed that you got to work hard to get
8 what you want in this life, you don't steal, you don't take,
9 you don't deceive, you don't lie.

10 We all have a choice, a choice to do right or a
11 choice to do wrong no matter what we were brought out in the
12 past, no matter what we went through.

13 Maurice wanted punishment to fit with his crime -- to
14 fit him and not his crime.

15 We have more than enough evidence to show who his
16 character is by what he has done in the past. I can assure
17 you his punishment should fit him with the maximum amount
18 allowed. I, for one, believe he thought that -- sorry.
19 Excuse me.

20 He is not fit to change. He is not. He also shown
21 time, and time, and again, given chance after chance, and we
22 don't see change. He is constantly deceiving people and
23 taking money.

24 He is not unlike other defendants who have come
25 before the Court in the way that he was raised by grandparents

1 in the absence of his own. So many others have gone through
2 this. So many others have triumphed over this. You don't
3 allow your past to define who you are. You are your present
4 and you are your future, and only you can make that choice,
5 Maurice.

6 By all accounts, Maurice as a small child had good
7 academic and ability. That's great. So was I. Even going
8 through poverty, even sleeping on a mattress with mice and
9 cockroaches, I chose to get up, go to school, get that grade,
10 go to school, go to college, and even be an athletic scholar,
11 just like he was.

12 Along the way he suffered significant childhood
13 trauma whose shape he has become. I had childhood trauma. I
14 had physical and mental abuse. More than you can ever
15 imagine. Stuff that haunts me every day of my life. But I
16 move forward because, again, I am my present and I am my
17 future, and I am not my past.

18 I cannot fall on my past like he is right now just to
19 have somebody show mercy on him. It is his choice.

20 He has repeated that he is ready to take
21 responsibility for his actions so he can get a shorter
22 sentence.

23 The reason why he is doing this, your Honor, is
24 because he got caught. If he would not have gotten caught,
25 this would have continued longer, and longer.

1 I dealt with five years of this. I dealt with
2 countless endless nights of researching, doing background
3 checks, finding everything I needed to know about Maurice to
4 finally get to the truth.

5 I show here, with this. This plays a big role in my
6 feelings. He later enlisted in the military, but that
7 enlistment was short-lived.

8 I come from a very, very long line of military men.
9 Men who served in World War I, World War II, the Vietnam War,
10 Iraq, Iraq, and Afghanistan.

11 They showed honor. They showed character. They
12 didn't enlist and short-live their obligation to honor and
13 protect.

14 In enlisting in the military, you go through basic
15 training. The first thing you are taught in basic training is
16 your honor code. The Army, the Air Force, the Marines, and
17 the Navy, their honor code enlists loyalty, duty, respect,
18 selfless service, honor and integrity, respect, human dignity.
19 None of those has he done in his past, the past 14 years that
20 he has been doing criminal acts.

21 So don't pride yourself, Maurice, in the fact that
22 you enlisted in the military for even a short period of time,
23 because any of these honor codes have never been fulfilled by
24 him.

25 The sentence of ten years in prison is sufficient,

1 according to him.

2 I have been sentenced to seven years of financial
3 bankruptcy. That, to me, is just as much as ten years in
4 prison for my life. I'm not incarcerated, but I'm
5 incarcerated in my own life.

6 I cannot go through with what I was educated on. I
7 have to downplay my salary. I have to change my entire way of
8 life, not just for myself, but also for my four-year-old and
9 my six-year-old.

10 The statement reads "A ten-year sentence will
11 therefore serve as a greater deterrent and punishment for
12 Mr. Fayne. He is 38 years old, and in ten years he will be
13 48. His daughters will be 28 and 26. His grandmother will be
14 79. The loss of time with his daughters and grandparents
15 weigh heavy on Mr. Fayne."

16 Death is a part of life. I lost my grandmother
17 during this whole event. I had no financial means to go to
18 her funeral to pay my respects to my grandmother who raised me
19 as well. The pain is brutal.

20 So do I feel sorry for him? I do. But I went
21 through it way before he has to go through it. I did nothing
22 to have that taken away from me, he took that away from me.
23 He took my grandmother away from me.

24 Where was he during his children's birth? Their
25 toddler years? Their growing-up years? He was an absent

1 father. He now, because he is a father, wants to go to be a
2 part of their lives, wants them to be involved.

3 He did not think about his children and his
4 grandmother while he was doing these criminal acts. He just
5 continued to do them time, after time, after time.

6 If you so love your family that much, Maurice, you
7 should have thought about that before you did what you did.
8 Before you turned other people's lives around. Before other
9 people died because of your acts, actually.

10 During this event, I was pregnant with twins. He
11 knew about it. I sent him a picture of my sonogram. I
12 pleaded to them to please close this, quote, unquote, Walmart
13 deal.

14 It caused me great stress, hair loss, tremors, great
15 panic and anxiety. I have tachycardia, which is a heart
16 condition. They didn't take that into account. They
17 continued to ask for more money. They continued to ask for my
18 jewelry. They continued to tell me "In a week you will get
19 your return."

20 I lost those two twins. I lost the man that I was
21 engaged to, the love of my life for 20 years. And all this
22 came from this Ponzi scheme.

23 Again, he didn't think about his family. He didn't
24 think about his grandmother. He didn't think about the people
25 he was hurting year, after year, after year.

1 A ten-year sentence is nothing, your Honor. I
2 strongly feel Maurice should pay back not just the
3 restitution, but the fact that the maximum amount of time is
4 what I feel is justice. Justice for myself and for my two
5 children who now have embedded in their minds sleeping in a
6 car with a blanket and pillow. They remember that and I have
7 to tell them stories to not make it as hard for them to,
8 hopefully, one day, they forget about it.

9 They have a great father that was able to help me
10 through this transition. But I, for one, am traumatized by
11 this event. The word "investment" will never cross my life
12 again. He used that word, as opposed to a Ponzi scheme, and
13 that's what he did.

14 I urge you to please take my pleadings into
15 consideration that my life is no different than his. We grew
16 up the same. We both have elderly grandparents, I lost mine
17 before he did, and he took that from me and he took two other
18 babies from me.

19 That's what I have to say.

20 THE COURT: Thank you, Ms. Wolf. I appreciate you
21 coming to court today, I know how hard that was.

22 Thank you.

23 MS. LAURA WOLF: Thank you.

24 MR. PHILLIPS: Next, your Honor, we have Sean Frank.

25 MR. FRANK: Morning, your Honor.

1 THE COURT: Morning, Mr. Frank.

2 MR. FRANK: I'm Sean Frank. I was engaged to
3 Ms. Laura Wolf.

4 This is very hard.

5 I spent the last four and a half years in a 10x10
6 office space, researching tax law, background checks, and all
7 information possible on Maurice Fayne to understand how could
8 I be so victimized?

9 When Ms. Wolf got involved in the investment with the
10 Walmart deal, it was an opportunity for both of us. The
11 contracts, the information that he presented seemed to be
12 legitimate.

13 Going forward with him and Dan Jay and the other
14 conspirators gave promise to what they were doing as far as
15 Flame Trucking, Diamond Freight Trucking and all the other
16 companies.

17 It started out with an initial investment to cover
18 devices or something for 130 trucks with Walmart. A simple
19 investment. Seemed legit.

20 I have been chasing that same \$10,000 for the last
21 four years; it turned out to be hundreds of thousands of
22 dollars later.

23 I put my house up, pulled money out of my house to
24 try to cover the expenses, to try to cover my fiancée's
25 investment and to show validity if there was some truth to

1 what this man was doing.

2 After months of research, speaking with Walmart's
3 heir, speaking with Walmart's legal department, it came to
4 fruition that none of what Mr. Fayne has done was correct.
5 They have never heard of Flame Trucking, they have never done
6 business with Flame Trucking.

7 Flame Trucking was utilizing Walmart's logo and
8 documentation to solicit funds in this Ponzi scheme for over
9 seven years.

10 Flame Trucking, as I look back on his character from
11 2000 to now, over 20 years of history in the criminal system,
12 he has a history of defrauding people, he has a history of
13 domestic violence, he has a history of violence in the
14 streets. He has a network that is not so kosher in today's
15 society, if I can say it so gentle.

16 I sat in this 10x10 room and read, and read, and read
17 every day to this moment to figure out what the truth was.

18 We lost the twins; I lost my relationship; I lost my
19 home to a hard money lender that I am still paying interest on
20 and don't even own anymore. I lost my vehicle; I lost my
21 401(k), I lost my occupation for nine months, almost ten
22 months, and I took that time to research and figure out where
23 did I go wrong?

24 It was not me.

25 When I had no counsel for depression, I thought about

1 taking my own life because I had lost ten years of my savings
2 with the promise that I would have a return on my investment,
3 a return that was supposed to set up a nice house for me and
4 my fiancée and potentially our twins.

5 That hurt. That hurt.

6 But what really hurt was him not having remorse at
7 all. There was a comment he made, he said What man calls me
8 at 2:00 in the morning and asks about his investment? Who
9 does that?

10 I did that. What's going on? Why is this not going
11 through? Why the many lies? Why is money paying one hand to
12 the other? Why is money paying the bankruptcy, paying the
13 bank charge offs, other things other than what the contract
14 had stated -- that you forged with Walmart? And other
15 companies. That's just one.

16 This resonated with me every day to find some type of
17 resolution. The struggle was real for me and my son. To
18 explain to him that a man can take your livelihood by the mere
19 fact of dangling a carrot in front of you and you thinking
20 you're okay as you keep racing after the carrot.

21 I want to speak on the remorse piece, because I felt
22 Mr. Fayne should have had some type of remorse for his
23 victims. Not in one of those documents, in all 200-plus
24 documents that sent to the Court, did he apologize and say I'm
25 sorry.

1 Today he apologized, but that is not I'm sorry. I am
2 sorry for how you lost your house, I am sorry for the loss of
3 your babies, I'm sorry for the loss of your livelihood, I'm
4 sorry for what it has cost you.

5 Just so you could be in the streets and bling-bling
6 with your friends on television. To prove what?

7 The false reality of virtual reality because you
8 could not do it yourself the hard way, like hard-working
9 people. You can't get in the grind and sit there behind a
10 desk and learn something?

11 You can't run a trucking company? Because when I
12 asked you Who does your operations? You said Walmart does my
13 operations, I don't need to do anything.

14 That resonated with me. When you have a
15 multi-million dollar company, you've got a staff. You have
16 people behind you that support you. You have people that help
17 run your day-to-day.

18 You're getting hundreds of thousands of dollars from
19 us for a potential multi-million dollar contract with Walmart,
20 and you don't have an operation?

21 Flags went up.

22 You know, you talk about your livelihood and you want
23 to stress your mom is this and a drug addict, growing up in a
24 crack home, not having things around you.

25 But you would think after 20 years, you might have

1 learned after the first incarceration, the second
2 incarceration, those were triggers to say maybe I'm sorry,
3 maybe I need to change my path. But the greed had pulled him
4 through, wanting more and more to put on the façade that's not
5 real.

6 People are dying today just to breathe. You took all
7 of our savings. You took everything away from us. Even up
8 until the last month, March of 2020, you asked for my
9 ex-fiancée's jewelry to get more money.

10 For what? What did it prove?

11 I hope this joyride was fun. It was not fun for me.
12 I lost four years with my son, my family. I'm not even in my
13 own home anymore -- that was paid off.

14 Driving a 2000 Honda, 232,000 miles on it. Four
15 years.

16 But my mind stayed true to figure out what justice
17 would prevail.

18 You ask for ten years, you ask for forgiveness, but
19 you not once said sorry to your victims. Not once have you
20 said sorry to the man who paid your student loan to help you
21 get that PPP loan. Never once did you pay the man that helped
22 you with other expenses so you can get all these loans.

23 But yet you can go and buy a \$300,000 car. A Rolex.
24 That's the memory you want to take with you? I hope it was
25 worth it.

1 My biggest pain: I lost Laura Wolf. We have known
2 each other for over 20 years. That's my ride-or-die woman.

3 And we've been through this pain and separation and
4 isolation and trying to find a cause and trying to find
5 justice and trying to get an answer. And to hear I'm sorry.

6 Laura, I am sorry this ever came across your plate.
7 I am sorry it came across my plate. These are the type of
8 words I would love to hear from Mr. Fayne.

9 No.

10 What man calls another man at 2:00 in the morning?
11 This man does, because I did not stop.

12 I want this Court to understand that I have tried my
13 due diligence and several process services, several documents.
14 I have spent hundreds of hours trying to learn the law and
15 trying to get some type of restitution.

16 I plead to the Court that the Court will confirm my
17 arbitration award on behalf of the suffering and pain that
18 myself and my ex-fiancée suffered.

19 I ask the Court that ten years is not enough.

20 Now you want it to be a father. I lost four years
21 with my son. I have lost that opportunity to just say hey,
22 son, let's go out and play in the backyard with the beach
23 ball, soccer, football.

24 There is some growth from this. There is some
25 learning from this. I didn't know I could do it. I didn't

1 know I can actually sit there and study a field that's not
2 even in my profession.

3 I was driven. And just as much as I had the
4 determination to drive and learn this, Mr. Fayne should have
5 enough determination to drive and learn not to do this.

6 In his argument he asks I want to go back to school
7 and get a degree. You want to go back to school and get a
8 degree after you got caught. After you realize now all the
9 pain and suffering.

10 There is one older woman that made an investment of
11 \$40,000, out in Maryland, she was so stressed that she didn't
12 get her money back, she drank herself to death.

13 I called Madone (phonetic) and told him about this,
14 and he said that ain't nothing for me to worry about. I said
15 that was to Flame Trucking, your company, and now this woman
16 is dead.

17 If you have 20 years of history of criminal activity,
18 forgery, battery, defrauding the government, what's going to
19 change? The character building is there. He has been that
20 person since day one. You can't blame that on your family.
21 Every person has their own self worth.

22 I ask the Court to give the maximum sentence as
23 possible. On behalf of those who are not able to speak,
24 because I have spoken to many victims, I would like for you to
25 give them restitution as well.

1 I'm sorry that they couldn't bring their stories.
2 There are tens and twenty other people that have been affected
3 that cannot speak today, so I am hoping you take that into
4 consideration in your sentencing.

5 Thank you, your Honor.

6 THE COURT: Thank you, Mr. Frank. Thank you for
7 coming to court today.

8 Anything further, Mr. Phillips?

9 MR. PHILLIPS: No, your Honor.

10 THE COURT: Anything further, on behalf of the
11 defendant?

12 MS. DURRETT: No, your Honor.

13 THE COURT: The Court has considered the entire
14 record in this case, and pursuant to the Sentencing Reform Act
15 of 1984, it is the judgment of the Court that the defendant,
16 Maurice Fayne, is hereby committed to the custody of the
17 Bureau of Prisons, to be imprisoned for a term of 210 months
18 as to each of Counts 1 through 6, all counts to be served
19 concurrently.

20 It is ordered that the defendant shall pay to the
21 United States a special assessment of \$600, which shall be due
22 immediately.

23 It is further ordered that the defendant shall make
24 restitution in a total amount of \$4,465,865.55 for the victims
25 in this case, and they are:

1 United Community Bank, in the amount of \$2,045,300;
2 The United States Small Business Administration, in
3 the amount of \$20,453;

4 Jimia Cain, in the amount of \$221,000;

5 Sean Frank, in the amount of \$231,862;

6 Laura Wolf, in the amount of \$163,811.19;

7 Robert Tuscana, in the amount of \$52,635;

8 Amanda Napier, in the amount of \$150,000;

9 Marla Newman, in the amount of \$174,400;

10 Jeanne Johnston, in the amount of 156,350;

11 Mike Rubial, in the amount of \$102,338.47;

12 Linda Appleby, the amount of \$45,000;

13 Alejandro Davila, in the amount of \$22,000;

14 Edie Lenaberg, in the amount of \$128,900;

15 Reuben Azrak, in the amount of \$130,000;

16 Terrance Miller, in the amount of \$50,000;

17 Ken Pritchett, in the amount of \$544,565.89;

18 Elizabeth Baun, in the amount of \$100,000;

19 John Baun, in the amount of \$30,000;

20 Tameika Price, in the amount of \$9,600;

21 Jamar Rucker, in the amount of \$59,000;

22 And Sherrie Odom, in the amount of \$28,650.

23 The restitution shall be paid in full immediately.

24 Any restitution payment that is not paid in full must be paid
25 in monthly installments from any wages the defendant earns in

1 prison during any period of incarceration at a minimum the
2 greater of \$25, or 50 percent of the deposits in his inmate
3 trust account per quarter.

4 Any portion of the restitution that is not paid in
5 full at the time of Mr. Fayne's release from imprisonment,
6 including a halfway house, will become a condition of
7 supervision and be paid to the clerk of this court for
8 distribution to the victims at a monthly rate of \$150, plus
9 25 percent of gross income in excess of \$2,500 per month.

10 The defendant shall notify the United States attorney
11 for this district within 30 days of any change of mailing or
12 residence address that occurs while any portion of this
13 restitution remains unpaid.

14 The Court finds the defendant does not have the
15 ability to pay a fine or the cost of his incarceration, and
16 will therefore waive the fine and cost of incarceration in
17 this case.

18 The Court will incorporate the final order and
19 judgment of forfeiture in this case that was entered on
20 July 20 of 2021.

21 Upon release from imprisonment the defendant shall be
22 placed on supervised release for a term of five years as to
23 each of Counts 1 through 6, all counts to be served
24 concurrently.

25 Within 72 hours of release from the custody of the

1 Bureau of Prisons, the defendant shall report in person to the
2 probation officer in the district to which he is released.

3 The defendant shall comply with the standard
4 conditions that have been adopted by this Court, including the
5 following mandatory conditions:

6 Number one, he shall not commit another federal,
7 state, or local crime;

8 Number two, he shall not unlawfully possess a
9 controlled substance;

10 Number three, he should refrain from any unlawful use
11 of a controlled substance and submit to one drug test within
12 15 days of release from imprisonment, and at least two
13 periodic tests thereafter;

14 Fourth, the defendant shall make restitution in
15 accordance with this Court's previous order;

16 Fifth, the defendant shall cooperate in the
17 collection of DNA as directed by his probation officer.

18 The Court is also imposing the following special
19 conditions of supervision:

20 The defendant shall submit his person, property,
21 residence, vehicles, papers and computers to a search
22 conducted by the United States Probation office.

23 The defendant shall permit confiscation or disposal
24 of any contraband found pursuant to the search.

25 The defendant shall make a full and complete

1 disclosure of finances and submit to an audit of financial
2 documents at the request of his probation officer.

3 The defendant shall not incur any new credit charges
4 or open additional lines of credit without the approval of his
5 probation officer.

6 The defendant shall participate in a substance abuse
7 program and follow the rules and regulations of that program,
8 and submit to substance abuse testing to determine if he has
9 used a prohibitive substance.

10 The defendant shall participate in a mental health
11 treatment program and follow the rules and regulations of that
12 program and take any and all mental health medication
13 prescribed by his treating provider.

14 The defendant shall also pay all or part of the cost
15 of any of these programs unless that payment is excused by his
16 probation officer.

17 Let me talk about the 3553(a) factors and indicate
18 why I believe this is a fair and reasonable sentence in this
19 case.

20 First, the nature and circumstances of this offense.
21 Let me just say, the Court has been on the bench almost seven
22 years. This may be the worst case of fraud that I have seen
23 since I have been on the bench, and I have seen some bad
24 cases.

25 But to the extent that this went on for five to seven

1 years? The misrepresentations that were said to a number of
2 victims, two of which we heard today, but many more who are
3 out there, is unconscionable. There is nothing that can
4 excuse it.

5 When you look at the presentence report and determine
6 what Mr. Fayne did with this trucking company and the lies and
7 the misrepresentations that he told to the victims in this
8 case to basically get all this money -- and the Court has seen
9 circumstances where people have taken money from people and
10 it's been because their family is on the outs, they are under
11 this incredible pressure, not to justify it, but that there is
12 a reason that you can explain for why they did this.

13 And what reason did Mr. Fayne do this? It was to get
14 more for him. It was to get cars. It was to get jewelry. It
15 was to basically cover up what he was doing throughout this
16 period of time of many years. I mean, it was literally
17 stealing money.

18 You talk about Robin Hood stealing from the rich and
19 giving to the poor. This was the opposite. This was stealing
20 from people that couldn't afford to lose this money and making
21 himself rich. It's the reverse of Robin Hood.

22 This wasn't a one-off. This wasn't something that he
23 did and he got some religion and decided not to do it again.
24 He just kept doing it and doing it. And the lies just kept
25 on.

1 There are so many instances in the PSR that I can
2 talk about, but one was in this Walmart Ponzi scheme that he
3 worked. At one time they found that there was a guy at
4 Walmart that actually existed who was an insider, and that
5 Mr. Fayne actually posed as this person, disguised his voice
6 and in the telephone conversation with investors, gave the
7 impression that well, if you had any doubts, you're talking to
8 someone from Walmart, here I am. And it was Mr. Fayne that
9 did that.

10 So just continually during this period doing
11 everything he could to make sure that the victims kept giving
12 him money. Kept zeroing out their bank accounts. Sold their
13 possessions so that Mr. Fayne could have more possessions.

14 And that was just the Ponzi scheme. Then we go off
15 into the PPP fraud, the loan that he got from United Community
16 Bank, which was another complete fabrication.

17 Here are programs that were set up -- we've all gone
18 through the coronavirus situation for the past year and a half
19 and we have seen businesses out there close, struggle, lay off
20 people. And this was a program for which small businesses
21 could stay in business to keep people employed, to keep food
22 on the table for all of their employees.

23 That was the purpose of this. And it saved a
24 tremendous amount of businesses.

25 But what did Mr. Fayne do? He took that money and,

1 again, did what he did with respect to the Ponzi scheme. It
2 just kept going on, and on, and on.

3 And was this the first time -- and now I'm getting
4 into the history and characteristics of Mr. Fayne.

5 Was this the first time that Mr. Fayne has committed
6 fraud? No, it isn't. He has done it before. He has never
7 had to pay like he's going to have to pay now, that's for
8 sure, but he graduated to the big leagues with this one.

9 This was not just the forgeries, this was not just
10 the type of fraud that he did before in his life. This was
11 basically a five- to ten-year period during which,
12 continually, this is what Mr. Fayne was doing.

13 He wasn't really making a real living. He was living
14 off of the proceeds that he took from average citizens.

15 And when you think about the amount and the time that
16 this went on, how can I not give him a guideline sentence?
17 And it's not like I'm giving him over guideline sentence.
18 This is a low end guideline sentence.

19 Honestly, when I saw what the government's
20 recommendation was after I read the presentence report, I was
21 kind of flabbergasted that they were going so low, that they
22 were doing such a low variance. And now I understand the
23 reason was they didn't understand his criminal history.

24 But I'll tell you something, even criminal history or
25 not, this, as I said, may be the worst case of continual fraud

1 that I have seen since I have been on the bench.

2 And you know something? I have given out sentences
3 that are even higher than this. There was someone that was a
4 tax fraudster that got a number of years even more than
5 Mr. Fayne is getting. And so I looked at that sentence and I
6 said I gave that guy this sentence, how can I give Mr. Fayne
7 50 percent of that? I can't.

8 This is the only -- this is a fair and reasonable
9 sentence, Mr. Fayne. I mean, you earned it. You earned this
10 sentence by what you did to these people and what you did with
11 respect to the PPP loan.

12 Now, that said, I think you're 38 years old now,
13 you're going to get some good time when you're in prison. I
14 can't calculate exactly when you will get out, but you're
15 still going to be a young man, 50s is a young guy, when you
16 get out.

17 If you are truly remorseful, and it sounds to me like
18 the first time you may have been truly remorseful is when you
19 made the statement to me just earlier today -- and I hope it's
20 true. I hope it's real. I really do. You will have a lot of
21 time to think about this.

22 But I want you to -- when you come out, you're still
23 going to have kids, you're still going to have a family. You
24 are going to have the rest of your life and it's going to be
25 toward the latter part of your years.

1 And you're going to have to make a decision at that
2 point and that is what can I do to rectify what I have done?
3 And that is making a regular living like everyone else.

4 That is maybe reaching out to some of these people
5 whose lives you have changed forever in the negative. And
6 it's not -- let's face it, the odds of you paying back \$4.4
7 million are slim and none. You're going to pay some money
8 back, maybe some of these people will see something from it.

9 But there's also making it right either from a
10 religious perspective or from just a common decency
11 perspective. And you're going to have that opportunity to do
12 that and to set an example for your kids and for the rest of
13 your family.

14 You will pay for what you have done, but take those
15 last 20 or 25 years of your life and try to do something good
16 for once and make some of this right.

17 I can tell you this. If you get out and you go back
18 to this, well, then, you're going to sentence yourself to life
19 next time. But that will be your choice. Nobody in your
20 family would want that for you and I hope you don't do that.

21 I have considered the need for the sentence imposed
22 to reflect the seriousness of the offense. As I have talked
23 about, this is -- and I can't overstate this, this is the most
24 serious fraud that I have seen.

25 I have considered the need for the sentence imposed

1 to afford adequate deterrence. And this is double deterrence.
2 It's not only deterrence for Mr. Fayne, who needs deterrence,
3 it's general deterrence.

4 People have to understand that when you rip off the
5 number of people and in the amounts that were ripped off in
6 this case, you're going to serve a heavy penalty.

7 And I have considered the need to protect the public,
8 which is needed in this case.

9 I have considered the kinds of sentences available,
10 the kinds of sentence and the sentencing range established for
11 this offense as set forth in the guidelines. This is a low
12 guideline sentence.

13 I have considered any policy statement that's
14 pertinent.

15 The need to avoid sentence disparity. And I will
16 tell you right now, this is not a disparate sentence. This
17 fits in along the lines of the most severe sentences that I
18 have given for mail and wire fraud and bank fraud since I have
19 been on the bench. It's not outside of the range of what I
20 have done in similar circumstances.

21 And I have considered the need to provide restitution
22 to victims.

23 The sentence meets the criteria of punishment,
24 deterrence and incapacitation, and is sufficient but not
25 greater than necessary to comply with the directives of

1 Section 3553(a).

2 To Ms. Wolf and Mr. Frank and to the other victims in
3 this case, there is nothing that I can do today that's going
4 to make up for what was done to you. If putting Mr. Fayne in
5 prison for the rest of his life would rain money on all of
6 you, I would do it. But it's not.

7 I'm doing what I think is a reasonable and fair
8 sentence in this case. But I just want to say to you, to
9 thank you for coming into the courtroom today and I am sorry
10 for what happened. And I hope the two of you still have each
11 other even after all of this.

12 Does the government have any objection to the
13 findings of the Court, the guideline calculations, the
14 sentence or the manner in which it has been pronounced?

15 MR. PHILLIPS: No, your Honor.

16 THE COURT: Does the defendant have the any objection
17 to the findings of the Court, the guideline calculations, the
18 sentence or the manner in which it has been pronounced?

19 MS. DURRETT: Your Honor, we object to the
20 substantive reasonableness of the sentence.

21 Thank you.

22 THE COURT: All right. Mr. Fayne, you can appeal
23 your conviction if you believe that your guilty plea was
24 somehow unlawful or involuntary, or if there is some other
25 fundamental defect in the proceedings that was not waived by

1 your guilty plea.

2 You also have the statutory right to appeal your
3 sentence under certain circumstances, particularly if you
4 think the sentence is contrary to law.

5 However, a defendant may waive those rights as part
6 of a plea agreement, and you have entered into a plea
7 agreement which, with very limited exceptions, waives most of
8 your rights to appeal the sentence itself.

9 Such waivers are generally enforceable, but if you
10 believe the waiver was somehow unenforceable you can present
11 that theory to the appellate court.

12 With few exceptions any notice of appeal must be
13 filed within 14 days of judgment being entered in your case.

14 If you are unable to pay the cost of your appeal, you
15 can apply for leave to appeal without payment of fees and if
16 you ask the clerk of court they would file a notice of appeal
17 on your behalf.

18 I know if you have any further questions regarding
19 your rights to appeal in this matter, your attorney
20 Ms. Durrett will be glad to advise you further.

21 Mr. Fayne, do you have any questions about anything
22 the Court has said at today's sentencing hearing?

23 THE DEFENDANT: No, sir.

24 THE COURT: Anything further, on behalf of the
25 government?

1 MR. PHILLIPS: No, your Honor.

2 THE COURT: Anything further, on behalf of the
3 defendant?

4 MS. DURRETT: Your Honor, I know the Court can't
5 control where Mr. Fayne is placed, but if the Court would be
6 inclined to recommend he be placed in a facility near
7 Texarkana, so he can be close to his family, we would
8 appreciate that.

9 THE COURT: All right. I'll make that recommendation
10 in the J&C.

11 As you know, Ms. Durrett, it's just a recommendation.
12 It will be up to the Bureau of Prisons as to where he actually
13 serves, but I will request that he serve his sentence in a
14 facility close to Texarkana.

15 MS. DURRETT: Thank you, your Honor.

16 THE COURT: Court stands in recess.

17 (Proceedings were adjourned at 11:26 a.m.)
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REPORTER'S CERTIFICATE

I, Judith M. Wolff, Certified Realtime Reporter and Official Court Reporter for the United States District Court for the Northern District of Georgia, with offices at Atlanta, do hereby certify:

That I reported on the Stenograph machine the proceedings held in open court on Tuesday, September 14, 2021 in the matter of USA v Maurice Fayne, Case No. 1:20-cr-00228-MHC;

That said proceedings in connection with the hearing were reduced to typewritten form by me; and that the foregoing transcript is a true and accurate record of the proceedings.

This the 16th day of October, 2021.

/s/ Judith M. Wolff, RPR, CRR
Official Court Reporter